

ESTTA Tracking number: **ESTTA544568**

Filing date: **06/21/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	76293326
Applicant	Prema Jyothi Light
Applied for Mark	SHIMMERING BALLERINAS & DANCERS
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Submission	76293326 SHBD APPEAL BRIEF EXHIBIT N
Attachments	76293326 SHBD APPEAL BRIEF EXHIBIT N.pdf(544784 bytes )
Filer's Name	PREMA JYOTHI LIGHT
Filer's e-mail	premajyothilight@shimmeringly.com
Signature	/ prema jyothi light /
Date	06/21/2013

Trademark: SHIMMERING BALLERINAS & DANCERS  
Serial #: 76293326  
Applicant: Prema Jyothi Light

**EXHIBIT N – Specimen 03 (Page 1 of 4)**

“Meet Two Dizzy Dames: The Candy Cane Twins:  
Swirlina, The Swirling Ballerina & Twirlina, The Twirling Ballerina”

The following four-page leaflet is offered as a Specimen in support of the Trademark shown on Drawing Page 04 (see EXHIBIT D), which is in full color, with all typographical corrections made.

The copyright date for the Specimen leaflet is 1982, the same date as the date on some of the Specimens originally filed in this case, in 2001. This version of the Trademark was in use long before a typist for Applicant made some errors in retyping the Trademark into a different software.

When Applicant had the text for the Trademark re-typed into a different software, she did not immediately notice the typographical errors by the typist. She was in an accident and had to rely upon the services of others. Later, when she did notice, she had the errors corrected, but publications have gone out with more than one version of the Trademark. The same essential Commercial Impression is conveyed by all versions of the Trademark. She did not immediately correct the record with the USPTO because the Examining Attorney was arguing over whether to allow her any secondary elements in the Trademark at all. Then in 2002, she was badly injured in another near-fatal auto crash and had to temporarily suspend working on her pending Trademark cases.

However, this “Swirlina & Twirlina” Specimen is also filed in support of Acquired Distinctiveness, as this version of the TM has been in use since well before 1982. It has Acquired Distinctiveness by its use over decades of time. The claim of use since well before the original application date was affirmed in the Declaration of Use in the RESPONSE TO OFFICE ACTION dated 01-28-13, as well as in the original claim of Acquired Distinctiveness made on December 15, 2009.

# Shimmering<sup>TM\*</sup> Ballerinas & Dancers

Fun Things for Kids Inside --  
Coloring Page with  
Candy Canes & Hearts,  
and Full-Color Illustration  
of Your Favorite Shimmering  
Ballerinas & Dancers Twins!

Meet

Two Dizzy Dames: The Candy-Cane Twins:  
Swirlina Shimmerina & Twirlina Shimmerina

by  
Prema  
Jyothi  
Light

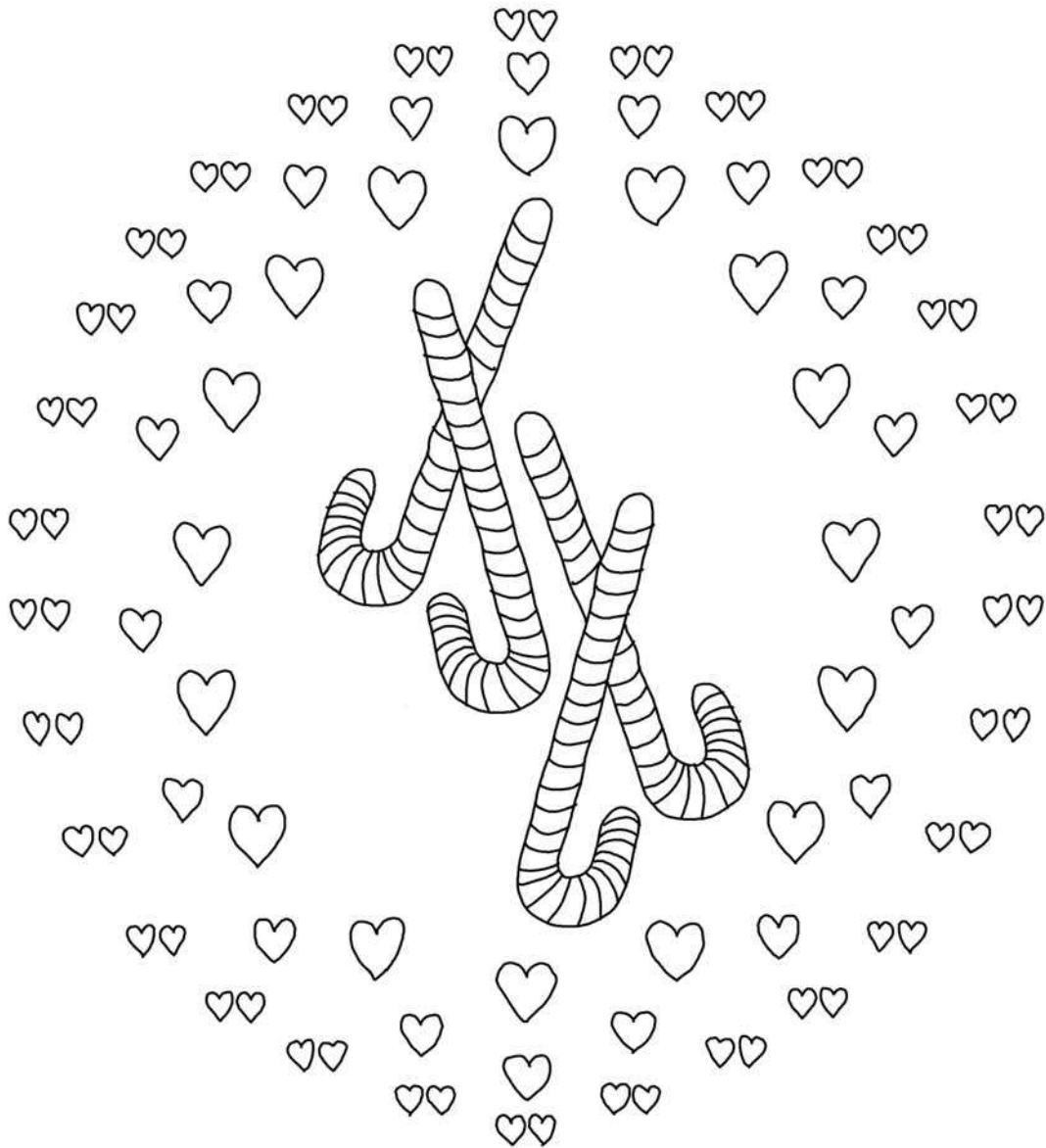


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\* (For complete Trademark, see back page)

*Two Dizzy Dames: The Candy-Cane Twins:  
Swirlina Shimmerina & Twirlina Shimmerina*

*Coloring Page -- Candy Canes & Hearts!*



Page 2

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*Two Dizzy Dames: The Candy-Cane Twins:  
Swirlina Shimmerina & Twirlina Shimmerina*



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